

## **REMARKS**

This responds to the Office Action dated on November 28, 2007.

Claims 1, 3, 19, 21, 27, 31, 34, and 36 are amended, no claims are canceled, and no claims are added; as a result, claims 1-3, 5-13 and 16- 41 remain pending in this application. The amendments are merely intended to further clarify the claims and are not related to patentability. Thus, the amendments do not necessitate a new search. The amendments are also fully supported by the instant application (e.g., paragraph 0055).

### **§103 Rejection of the Claims**

Claims 1-3, 5-13 and 16-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McClure et al. (U.S. Patent No. 6,250,548, hereinafter “McClure”) in view of Lemmons (U.S. Publication No. 2003/002887, hereinafter “Lemmons”).

For at least the reasons that are set forth below, Applicant respectfully submits that this rejection is in error, and the identified claims are non-obvious over McClure and Lemmons, and are therefore allowable. Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.<sup>1</sup>

Claim 1 recites, in part, “receiving electronic ballots from the broadcast receivers, each electronic ballot comprising a set of votes received from a voter using the interactive voting application, each vote of the set of votes included in each ballot being associated with a unique sequence identification number.” (Emphasis added throughout)

In response to arguments presented in the Applicant’s previous response, filed September 10, 2007, the Office Action, at page 12, asserts that “McClure et al discloses each electronic ballot comprising a set of votes inputted into the broadcast receiver by a voter using the interactive voting application (i.e., voter is able to cast one ballot, column 36, lines 66-67), each vote being associated with a sequential identification number (i.e., assignment of an

<sup>1</sup> *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)

issue number, column 36, lines 59-61). As such, each vote is indeed associated with a sequential identification number, because each vote on the ballot is inherently associated with the issue number that identifies the ballot.” Applicant respectfully disagrees with the assertion and submits that McClure in the cited passages does not disclose the claimed features of *each electronic ballot comprising a set of votes* and *each vote of the set of votes included in each ballot being associated with a unique sequence identification number*.

McClure, in the passages relied upon by the Office Action, describes that an issue number is assigned to a voter and printed in each ballot and that the issue number is read and matched with the previously stored number representing that ballot, as it was produced and sent out:

“Election officials verify the information supplied by the voter and approve the assignment of an issue number for the voter. The issue number is electronically sent to the voter via the Internet to the address supplied by the voter and defines the proper ballot style for the voter.”<sup>2</sup>

“The issue number printed on the ballot and subsequently read by the document scanner is used to manage the eligibility of voters. . . When the ballot is returned and the issue number read, it is matched in the EAS data with the previously stored number representing that the ballot was produced and sent out. After matching the numbers, the association with the voter is severed and the name or voter registration number of the voter is randomly stored (234) in a memory location.”<sup>3</sup>

According to the above passages, each ballot in McClure has one issue number that identifies that ballot. McClure is silent regarding the feature of *each electronic ballot comprising a set of votes*. In contrast, the ballot in claim 1 *comprises a set of votes* received from a voter, and *each vote of the set of votes included in each ballot is associated with a unique sequence identification number*. Thus, the claimed *unique sequence identification number* identifies *each vote of a set of votes included in each ballot*, as opposed to an issue number in McClure that is assigned to a voter and identifies each ballot. Consequently the issue number in McClure is not the same as the *unique sequence number* that each of the plurality of votes on each ballot in claim 1 is associated with. Thus, McClure does not teach “each electronic ballot comprising a set of votes received from a voter using the interactive voting application, each vote of the set of votes

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<sup>2</sup> McClure, col. 36, lines 59-63

<sup>3</sup> McClure, col. 33, lines 23-41

*included in each ballot being associated with a unique sequence identification number,” as recited in claim 1.*

Adding Lemmons to McClure fails to provide disclosure of those features of claim 1 missing from McClure. Lemmons discusses the viewer may be able to activate links to the WWW and then be enabled to cast a vote, for example, on which character the viewer liked the best during a particular television program, such as the “Survivor” series. In Lemmons, the viewers may also be able to cast vote for elections and read about their local political representatives by clicking on an interactive link.<sup>4</sup> However, Lemmons does not teach any kind of *electronic ballot comprising a set of votes* and does not show *each vote of the set of votes included in each ballot being associated with a unique sequence identification number*. In other words, Lemmons does not show the feature of claim 1 calling for *“each electronic ballot comprising a set of votes received from a voter using the interactive voting application, each vote of the set of votes included in each ballot being associated with a unique sequence identification number,”* as recited in claim 1.

Therefore, McClure and Lemmons, individually or in the combination, fail to teach or suggest each and every element of claim 1 and thus the combination do not render the claim obvious. As such, claim 1 and its direct or indirect dependent claims 2-3, 5-13 and 16-18 are allowable and it is respectfully requested the claim rejections under 35 U.S.C. § 103(a) be withdrawn.

The same arguments as presented with respect to claim 1 are also applicable to a consideration of claims 19, 21, 27, 31, 34 and 36. As such, Applicant respectfully submits that at least for the same reasons set forth above, claims 19, 21, 27, 31, 34 and 36, and their direct or indirect dependent claims 20, 22-26, 28-30, 32-33, 35, and 37- 41 are allowable and it is requested the claim rejections under 35 U.S.C. § 103(a) be withdrawn.

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<sup>4</sup> Lemmons, paragraph 0047

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney 408-278-4053 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
408-278-4053

Date February 21, 2008

By Ali Miresghi  
Ali Miresghi  
Reg. No. 58,726

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 21 day of February 2008.

Name

Signature